

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

CHRISTOPHER LEE NEAL,	)	
	)	
Petitioner,	)	
	)	
v.	)	1:08CV458
	)	2:94CR300-2
WARDEN JOYCE FRANCIS,	)	
	)	
Respondent.	)	

ORDER

On September 15, 2009, the United States Magistrate Judge's Order and Recommendation [Doc. #82] was filed and notice was served on the parties pursuant to 28 U.S.C. § 636(b). In the Recommendation, the Magistrate Judge recommended that Petitioner's Petition for a Writ of Error Coram Nobis be granted, and further recommended that in light of this determination, Petitioner's Motion for Preliminary Injunction [Doc. #70], Motion for Summary Judgment [Doc. #72], Motion for Judgment on the Pleadings [Doc. #903 in 2:94CR300-2], Motion for a New Trial and to Supplement the Petition [Doc. #915 in 2:94CR300-2], and Motion to Dismiss the Indictment or Release Petitioner on his own Recognizance [Doc. #922 in 2:94CR300-2] should all be denied. The Magistrate Judge also denied certain other motions filed by Petitioner, including a Motion to Present New Evidence of False Testimony by a Government Witness [Doc. #66], a Motion to File a New Habeas Petition [Doc. #81], and a Motion to Supplement the Habeas Petition [Doc. #895 in 2:94CR300-2].

The Respondent does not object to the Recommendation. For his part, Petitioner has filed timely Objections to certain portions of the Order and Recommendation. The Court has

now reviewed de novo the Objections and the portions of the Order and Recommendation to which objection was made, and finds that the Objections do not change the substance of the United States Magistrate Judge's ruling. The Magistrate Judge's Order and Recommendation [Document #82] is therefore affirmed and adopted.

IT IS THEREFORE ORDERED that Petitioner's Objections to the Magistrate Judge's Order and Recommendation are overruled, and the Order and Recommendation [Doc. #82] is affirmed and adopted.

As a result, IT IS ORDERED that Petitioner's Motion for Preliminary Injunction [Doc. #70], Motion for Summary Judgment [Doc. #72], Motion for Judgment on the Pleadings [Doc. #903 in 2:94CR300-2], Motion for a New Trial and to Supplement the Petition [Doc. #915 in 2:94CR300-2], and Motion to Dismiss the Indictment or Release Petitioner on his own Recognizance [Doc. #922 in 2:94CR300-2] are DENIED.

IT IS FURTHER ORDERED that the remaining claim in Petitioner's petition [Doc. #1], which has been construed as a Petitioner for a Writ of Error Coram Nobis, is GRANTED, and Petitioner's conviction and sentence on Count Four is VACATED. IT IS ORDERED that Petitioner be resentenced on his remaining counts of conviction and that counsel be appointed to represent Petitioner for the resentencing.

A Judgment will be filed contemporaneously with this Order.

This, the 30<sup>th</sup> day of September, 2009.

  
United States District Judge

